

**IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA**

IN RE: : **SUPREME COURT OF PENNSYLVANIA**
: **277 M.D. MISC. DKT. 2002**
THE TWENTIETH STATEWIDE:
: **DAUPHIN COUNTY COMMON PLEAS**
INVESTIGATING GRAND JURY : **NO. 15 M.D. 2003**
:
: **NOTICE NO. 5**

TO THE HONORABLE ISAAC S. GARB, SUPERVISING JUDGE:

REPORT NO. 1

We, the members of the Twentieth Statewide Investigating Grand Jury, based upon facts received in the course of an investigation authorized by the Investigating Grand Jury Act, recommend administrative action in the public interest. So finding, with not fewer than twelve concurring, we do hereby adopt this Report for submission to the Supervising Judge.

Foreperson **C** The Twentieth Statewide
Investigating Grand Jury

DATED: _____, 2004

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**ORDER ACCEPTING AND FILING
INVESTIGATING GRAND JURY REPORT NO. 1**

AND NOW, this ____ day of _____, 2004, upon review of Investigating Grand Jury Report No.1, and finding that said report properly proposes recommendations for administrative action in the public interest based upon stated findings, and further finding that said report is based upon facts received in the course of an investigation authorized by the Investigating Grand Jury Act, 42 Pa.C.S. § 4541 *et seq.*, and is supported by the preponderance of the evidence, it is hereby

ORDERED

1. That Investigating Grand Jury Report No. 1 is accepted by the Court with the direction that it be filed as a public record with the Court of Common Pleas of Dauphin County.
2. That the Attorney for the Commonwealth deliver a copy of the Report to the: Northumberland County Prison Board; Warden of the Northumberland County Prison; and, Northumberland County Commissioners.

BY THE COURT:

Isaac S. Garb
Supervising Judge

NORTHUMBERLAND COUNTY PRISON INVESTIGATION

GRAND JURY REPORT

BACKGROUND

In 2002, the Sunbury Police Department received information regarding reports of wrongdoing within the Northumberland County Prison ("the prison"), which prompted them to conduct an investigation and to request the assistance of the Pennsylvania State Police ("PSP"). That investigation produced allegations of illegal drug use within the prison and sales of drugs and other controlled and non-controlled substances by inmates and corrections officers. There were other allegations of assaults, intimidation, and other misconduct by corrections officers as well as confusion and inconsistencies with regard to prison policies and procedures.

At the request of the Pennsylvania State Police, the Pennsylvania Office of Attorney General ("OAG") submitted this matter into the grand jury because the tools of the grand jury would be necessary and valuable in completing the investigation. This case was initially submitted to the Eighteenth Statewide Investigating Grand Jury in July of 2002 and then resubmitted to the Twentieth Statewide Investigating Grand Jury in March of 2003.

Between August 7, 2002 and November 5, 2003, these grand juries heard testimony from 20 witnesses, including law enforcement officers, past and present employees of the prison, past and present inmates of the prison, and others who were associated with the prison, but who were neither employed by nor incarcerated at the prison. The evidence and testimony presented to the grand jury showed problems within the prison dating back more than 5 years.

FINDINGS OF FACT

A. Deliveries of Controlled Substances by Prison Employees

The grand jury heard testimony detailing numerous instances in which corrections officers arranged the deliveries of controlled substances both within and outside of the prison facility. The testimony indicated that this activity has included the involvement of several corrections officers and this grand jury has issued a separate presentment regarding those criminal offenses which will be prosecuted in Northumberland County.

Testimony established that certain corrections officers would bring controlled substances, most often marijuana, into the prison for the use of the inmates and other corrections officers. Commonly, these officers would have the

controlled substances delivered to them or placed in their vehicles by relatives and acquaintances of prisoners for delivery to certain inmates within the prison. On other occasions, corrections officers would themselves purchase controlled substances which they would then smuggle into the prison. Testimony established that corrections officers involved in this activity would be paid by family members or friends of the inmates for delivering the controlled substances and contraband to the inmates.

There was also testimony that controlled substances would often be thrown over the walls of the prison wrapped in bundles or "balls." Several inmates testified that they would be permitted to enter the prison yard where they would retrieve the bundles and then distribute the contents within the prison. Other inmates testified that inmates on outside work details would often bring the bundles back into the prison from the yard. The testimony of these inmates was corroborated by the corrections officers who confirmed that other employees of the facility would allow this activity to go on although they knew it to be a violation of the law as well as internal prison procedure. Again, inmates and corrections officers testified that prison employees would be paid by the inmates, or by their families or friends, for allowing the contraband to get to the inmates.

Testimony also established that there was a gap underneath the rear gate which was sufficient to allow "balls" of contraband, including drugs, tobacco, and currency, to be shoved into the prison. Inmates testified that often these "balls" would be marked in a way identifying the inmate(s) to whom the contraband was to be delivered. Both inmates and employees of the prison testified that orderlies, *i.e.*, inmates given work privileges within the prison, were permitted to gather these "balls" for delivery to inmates in the prison.

B. Contraband Within the Prison

Numerous witnesses testified regarding the smuggling of certain contraband items, such as tobacco, currency, and controlled substances into the prison. Past and present inmates and corrections officers testified that the distribution and use of illegal drugs and other contraband among the inmates was rampant. As previously explained, contraband was commonly thrown over prison walls for retrieval, slid under a gap in the rear prison gate, or brought in by corrections officers pursuant to arrangements by inmates in the prison. According to witnesses before the Grand Jury, corrections officers were aware of these activities as well as the means used by persons inside and outside of the facility to smuggle these items into the prison but often turned a blind eye to the introduction and use of controlled and contraband substances within the prison. Testimony also established that corrections officers often failed to act when the smell of marijuana or other contraband substances wafted through the prison. Several inmates and at least one corrections officer testified that other corrections officers used controlled substances with inmates within the facility.

Inmates and prison employees testified that certain corrections officers allowed these activities to continue and, in fact, protected orderlies or inmates that were caught importing contraband within the prison system. One corrections officer testified that he had "fired" an "orderly" suspected of bringing contraband from the prison yard and other locations to inmates within the prison. The next day, another corrections officer, suspected of being the individual who controlled that orderly, hired the orderly back again and told the first corrections officer that he could not fire him. Testimony also established that there were no formal standards or procedures in place for the appointment, conduct and removal of inmates who worked as "orderlies."

C. Security Issues and Internal Control

Something to which frequent reference was made in the testimony before the Grand Jury was the matter of who "ran" the various wings of the prison. Numerous witnesses, including both inmates and prison officials, testified that the "right wing" and "left wing" were run by inmates who controlled the distribution of contraband to the inmates. These inmates were given certain privileges and special status by some of the corrections officers, particularly during the third or night shift. Several of the inmates testified or told law enforcement that the inmates who ran the wings had organizations within the prison which controlled not only the contraband within the prison but the meting out of punishments as requested by other inmates and corrections officers.

The evidence established that certain inmates were permitted to make telephone calls from the control office where the calls would not be recorded; to order food to be delivered to the prison; to be out of their cells during the evening shift, and to play cards with guards. All of this activity occurred "under the noses" of various lieutenants or supervisors who were responsible for the disciplined operation of the prison and the conduct of the corrections officers. Often these supervisory personnel were complicit in the activity.

Testimony established that prescription medications were often improperly distributed or not distributed at all. The internal controls designed for the distribution of medicine were often violated and responsibilities that should have been performed by a staff nurse or some other individual were often controlled by corrections officers known to be involved in other inappropriate behavior within the prison.

D. Assaults Within the Prison

Testimony was presented alleging physical abuse of inmates by corrections officers within the prison. Although records regarding injuries to the inmates were sparse, testimony from both inmates and corrections officers

indicated a disregard by several corrections officers for the physical safety and dignity of various inmates.

Several inmates testified that they witnessed assaults that ranged from "playful" swatting of inmates with a whiffle ball bat to physical assaults resulting in bruises, and, in two separate instances, a broken bone and blindness following an assault by corrections officers. Many of these assaults went unreported as inmates suspected and feared retaliation by corrections officers. Review of the evidence seized by the PSP from the prison revealed a paucity of documentation regarding assaults within the prison. There was also testimony by inmates who claimed to have witnessed the destruction of inmate complaints, often by the corrections officers cited in the complaints.

Testimony further established that certain inmates were assaulted by corrections officers during "intake," *i.e.*, the procedure that occurs when inmates are initially committed into the prison. Several inmates and corrections officers testified that inebriated individuals were often "bounced" off of the shower walls or otherwise assaulted and that corrections officers involved would simply blame the drunken condition of the inmate for any resultant injuries.

Where the evidence was sufficient to support a criminal prosecution, the Grand Jury recommended charges for the aforementioned assaults.

E. Inconsistencies and Confusion Regarding Prison Policies and Procedures

It was apparent from the testimony and evidence before the Grand Jury that the prison has operated for many years without formal or adequate policies and procedures. Testimony by the corrections officers was inconsistent regarding the existence of written or formal policies and procedures but consistent regarding the lack of any requirement for corrections officers to know or comply with policies and procedures. Although some policies did exist in the understanding of some of the corrections officers, the testimony established that many of those policies were observed more in the breach than in a consistent application. Only after a new warden was recently hired at the prison was an attempt made to update and make current an operating manual of policies and procedures to which an employee of the prison could rely for direction on the issues expected to arise within a prison system.

Testimony before the grand jury indicated that the prison had no clear procedure governing the reporting, investigation, and documentation of complaints or reports by inmates alleging misconduct by employees. For example, prison employees and inmates testified that an inmate could raise a grievance by submitting a "grievance form." Testimony established that it was not unusual for these grievance forms to be intercepted by the corrections officer who was the subject of the grievance. The procedure and standards for

investigations into alleged violations and assaults on an inmate is also unclear. Even in known instances where alleged misconduct by an employee was actually reported and acted upon, records of a report and any resulting action by prison management are either non-existent or incomplete.

Testimony established that no clear policy existed regarding procedures to be followed when contraband, including controlled substances, was located within the prison. Some corrections officers testified that their practice, upon seizing contraband, was to lock it in the “riot cabinet” for later investigation and disposal by supervisors or the prison administration. Other prison employees testified that when contraband, which had allegedly been placed in the cabinet, could not be found supervisory officers would explain that the contraband had been discarded or destroyed. Inmates testified that contraband seized by corrections officers would often be subsequently returned by another corrections officer. Testimony also established that no policy existed for documenting the lawful disposition of seized contraband or involving law enforcement agencies to investigate and prosecute the possession or delivery of contraband within the prison. Furthermore, the evidence presented to the Grand Jury established that the “riot cabinet” was little more than a storage cabinet containing everything from “flex cuffs” (which one prison official did not understand how to use) to a snow shovel. There was little security or control over access to this cabinet.

The evidence and testimony before the Grand Jury demonstrated an utter disregard for the appropriate creation and preservation of records by corrections officers and prison administrators. These officers and administrators were unaware of: their documentation responsibilities; the actual state of the nominal records at the prison; and, the lack of completeness of these nominal records. Policies and procedures, written or otherwise, regarding: inmate complaint procedures; investigations of alleged misconduct by prison employees; contraband seized within the prison; the destruction or disposition of seized contraband; the documentation of the extent and origin of inmate injuries; and, other standard prison operations were virtually non-existent. The prison’s records, to the extent they did exist, were seized by the PSP as part of this investigation.

F. Inconsistent Employee Accountability and Evaluation Procedures

Employee performance evaluations were sporadic and inconsistent. In the personnel files reviewed by the Grand Jury, there existed no record of employee evaluations. The limited reports of misconduct by certain of the corrections officers were incomplete regarding both the investigation into the alleged incidents and any action taken against the employee for the incidents. Prison employees who testified before the grand jury, or gave statements to the PSP, noted that they feared retaliation of co-workers and inaction by the prison administrators should they report any violations.

As previously indicated, testimony established that written policies and procedures for the operation of the prison were non-existent or unknown by the corrections officers, supervisors and prison administrators. As such, corrections officers were left to their own devices to determine a proper course of action in a given situation. Training, to the extent any was required, often amounted to simply observing another officer within the prison. At least one corrections officer testified that his “training” officer was one of the individuals deeply involved in the illegal and unethical activities within the prison.

CONCLUSIONS

After hearing the testimony from numerous witnesses, the Grand Jury concludes that the primary purpose of any reform of the prison should be the orderly and safe operation of the facility. This purpose is best accomplished by charging corrections officers involved in criminal violations and in making specific recommendations to correct both egregious and subtle problems in the administration and operation of the facility.

In evaluating the evidence, the grand jury considered and weighed a number of factors, one of the most significant of which was the nature of the allegations and the reporting system for violations within the prison. Allegations of misconduct by the corrections officers, as well as the ongoing importation by corrections officers and other inmates of controlled substances and contraband, were usually not reported or, when reported, were not documented or investigated. This lack of investigation and documentation obviously acted to inhibit appropriate oversight and accountability.

In accordance with the instructions of the Supervising Judge of the Twentieth Statewide Investigating Grand Jury that we should consider the credibility of witnesses in our evaluation of the testimony, this Grand Jury believes it has realistically evaluated the nature of much of the testimony. It recognizes that many of the inmates called to testify before this grand jury admitted to involvement in misconduct within the prison. Many witnesses also admitted to manipulating and using the weaknesses in the prison system for their own purposes and benefit. Individuals allegedly involved in misconduct or criminal activity, often claimed to have no, or a limited, recollection of the facts at issue, making it difficult to rely on such testimony. However, the evidence of misconduct was abundant and, in many instances, consistent and corroborated by credible testimony.

In reviewing the evidence, we find, by a preponderance of the evidence, the specific occurrence of the following conduct: the importation of contraband and controlled substances into the prison, the use of those substances, and the exchange of items of value, including money, for those substances; the granting

of privileges or other special consideration within the prison to certain inmates for improper and illegal reasons; that certain inmates were permitted to “run” or control the portions of the prison in which they were housed; that corrections officers engaged in regular violations of the law regarding the seizure and reporting of contraband items within the prison; that there were physical assaults on the inmates; and, a general absence of security and control of the facility. We also conclude that specific allegations of misconduct within the prison were brought to the attention of prison officials and often ignored.

To the extent that the foregoing conduct could be charged criminally, the Grand Jury has recommended such charges. This report endeavors to address the conditions described, criminal or otherwise, that can be remedied by those officials responsible for the continued operation of the prison. We therefore make the following recommendations:

RECOMMENDATIONS

1. We recommend that the prison establish a clear statement of policy requiring that, where there is evidence of criminal misconduct by prison officials and administrators, a complaint or report be referred promptly to the appropriate law enforcement authorities for investigation.
2. We recommend that the prison implement internal control standards for the documentation, and where appropriate, investigation of inmate complaints of employee misconduct.
3. We recommend that an internal control officer be appointed, whose duty it will be to investigate complaints of serious employee misconduct, in accordance with standards implemented pursuant to paragraph 2 of our recommendation.
4. We recommend that the prison implement and follow a mandatory system of review and evaluation regarding the performance of its employees.
5. We recommend that the appropriate prison officials update and keep current an operational manual concerning the prison’s policies and procedures (keeping in mind the specific allegations of misconduct contained in this report).
6. We recommend that employees of the prison be required to read, sign, and regularly review the operations manual discussed in recommendation number 5.

7. We recommend that the prison's implementation of internal control standards, as contained in recommendation number 2, include a review of any alleged violations of the prison's policy and procedure manual discussed in recommendation number 5.
8. We recommend that the prison implement a course of training and instruction for all corrections officers that includes systematic reviews of the policy and procedure manual discussed in recommendation number 5.
9. We recommend that the prison effectively implement a policy requiring the random drug testing of all inmates, and, if such a policy has already been adopted, that it be effectively implemented at once.
10. We recommend that the prison effectively implement a policy requiring the random drug testing of all employees, and, if such a policy has already been adopted, that it be effectively implemented at once.
11. We recommend that the prison implement a "search" policy for the employees and "work release" inmates entering the facility.
12. We recommend that specific guidelines be established for prisoners to work as "orderlies" and further enforce strict punishment (such as loss of status) for violations by that orderly of prison policies and procedures.
13. We recommend that such repairs and updates to the physical plant of the prison be implemented so as to secure the prison from the smuggling of contraband items into the prison.
14. We recommend that the prison board take any and all other steps necessary to support the attempts of administrators to create a more efficient and properly administered prison system. This support should extend to and include recommendations made regarding the discipline, suspension, and firing of corrections officers involved in criminal activity or other significant violations of the policies and procedures manual to be adopted or as previously understood.